IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

OP.No. 27319 of 1999(B)

PETITIONER:

P. ALIKOYA, PULLATTU HOUSE,
VENGERY, KOZHIKODE.

BY ADV. SRI.K.V.GOPINATHAN NAIR.

RESPONDENTS:

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1. **THE REGIONAL TRANSPORT AUTHORITY, KOZHIKODE, REPRESENTED BY ITS SECRETARY.**
2. **THE SECRETARY, REGIONAL TRANSPORT AUTHORITY, KOZHIKODE.**
3. **V. BALAKRISHNAN NAIR, PRESIDENT, MAVOOR GRAMA PANCHAYAT, MAVOOR.**
4. **THE STATE TRANSPORT APPELLATE TRIBUNAL, ERNAKULAM.**

BY GOVT. PLEADER SMT. M.K. PUSHPALATHA.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 01/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 46246/1999 IN O.P. NO. 27319/1999

DISMISSED

01/03/2007. **SD/- K. BALAKRISHNAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE PROCEEDINGS OF THE R.1. DTD. 11/02/1998 GRANTING VARIATION OF PERMIT.

EXT.P.2: COPY OF THE REGULAR PERMIT ISSUING THE VARIED PERMIT VALID TILL 09/04/2002.

EXT.P.3: COPY OF THE PROCEEDINGS OF THE R.2. ISSUING THE VARIED PERMIT DTD. 14/05/1998.

EXT.P.4: COPY OF THE REVISION MEMORANDUM M.V.A.R.P. NO. 289/98 FILED BY THE R.3. BEFORE THE R.4. DTD. 23/04/1998.

EXT.P.5: COPY OF THE COUNTER AFFIDAVIT FILED BY THE PETITIONER BEFORE THE R.4. DTD. 30/04/1998.

EXT.P.6: COPY OF THE ORDER OF THE R.4. IN M.V.A.R.P. NO. 289/1998 DTD. 14/10/1999.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR,J.

OP NO.27319 OF 1999-B

Judgment

The petitioner challenges Ext.P6 order of the STAT. By the said order, the decision of the RTA, Kozhikode dated 11.02.1998, granting variation to his permit on the route Kanniparamba-Kozhikode has been set aside. The main ground of attack against the order of the RTA before the STAT was that the third respondent herein, who was the petitioner before the STAT raised various objections before the RTA, against the grant of variation, but, none of them was considered. On that ground, the STAT interfered with the matter and quashed the order of the RTA. The learned counsel for the petitioner submitted that in view of such a finding, the only course open to the tribunal was to remand the matter for fresh disposal of his application, adverting to the objections raised by the revision petitioner. I find considerable force in the said submission of the petitioner. Of course, when a variation is granted, the convenience of the travelling public should be the prime consideration. The third respondent was the President of a panchayat and therefore, his views should have been considered by the RTA. So, Ext.P6 is modified directing the RTA to reconsider the application of the petitioner for variation of his permit in accordance with law after affording an opportunity of being heard to the petitioner and the affected parties, including the third respondent herein or his successor in office. Till the RTA takes a fresh decision, the petitioner can continue to operate. In other words, the interim order granted by this Court will remain in force till a fresh decision is taken by the RTA.

The RTA shall take the decision as directed above within two months from the date of receipt of a copy of this Judgment. While the RTA takes the decision, it will be free to consider all the contentions of the parties, untrammelled by the observations of the Tribunal in Ext.P6.

The Original Petition is disposed of as above.

01.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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